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SUBJECT: OVERWORKED SAO PAULO JUDGES WANT GREATER LAW
ENFORCEMENT COOPERATION

REF: SAO PAULO 946

Summary

1. (SBU) Sao Paulo judges tell us that they are overworked and overburdened and that the growth in the drug trade and lack of prison space make their already difficult work even more challenging. Greg West, Assistant United States Attorney and Organized Crime and Terrorism Section Chief for the Northern District of New York, traveled to Sao Paulo December 5-7 as part of a PA program on organized crime and plea bargaining. In addition to delivering several lectures West presented at the Sao Paulo School of Magistrates, West met with the incoming and outgoing Chief Justices of the Sao Paulo State Supreme Court and President of the Criminal Section of the Sao Paulo State Courts of Appeals. In addition, he visited the Barra Funda Criminal Court, Latin America's largest criminal court, to learn about its operations and procedures. Justices were eager to hear about the judicial system in the United States and how the courts handle organized crime. They asked for further exchanges and assistance. End Summary.

Drug Trafficking

2. (SBU) During a December 6 meeting, President of the Criminal Section of the Sao Paulo State Courts of Appeals, Justice Luis Carlos Ribeiro dos Santos, emphasized that drug trafficking is one of the most serious criminal issues in the State of Sao Paulo. He lamented how many children are pressured to run drugs and then become victims of associated violence. Justice dos Santos said that organized criminal gangs are increasingly involved in the drug trade and predicted that as part of their participation in a variety of criminal activities, they could potentially become involved in more nefarious endeavors including terrorist financing.

(Note: Poloff believes this comment does not reflect any current tie between criminal gangs and terrorist financing, but rather illustrates the thinking by Justice dos Santos of what could occur. End Note.)

Additional Concerns

13. (SBU) Sao Paulo State Supreme Court of Appeals Criminal Division justices raised a number of issues they saw as impeding the fight against crime:

-- Many law enforcement officials are involved in criminal activities, including a recent example of a case the court tried in which a chief of police was actually serving as the treasurer for a gang. Justice dos Santos, who takes over as president of the Public Administration Section of the court in January, said that in addition to police corruption, corruption among politicians and elected officials is also widespread. He noted that although Sao Paulo State has 645 municipalities, each with one mayor, there are over 1200 open corruption cases against mayors in the state.

-- Justices complained about the lack of prison space in Sao Paulo State. Other states regularly send their criminals to be jailed in Sao Paulo, regardless of where the crime occurred, because Sao Paulo has more jails and, even despite its own case backlog, manages to process prisoners much faster. However, the budget for all of the prisons in Sao Paulo comes solely from the state government meaning that Sao Paulo has to pay for the incarceration of prisoners from all over the country. Sao Paulo is not able to house adequately

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all of these prisoners nor build new facilities, leading to poor prison conditions and potentially to widespread abuses. (See reftel.)

-- The judges remarked that the federal government does not provide police with the funding nor legal tools necessary to fight trafficking in persons, arms, and drugs across Brazil's national borders.

The Court and its Internal Challenges

14. (SBU) Both during a meeting with the Criminal Section of the Sao Paulo Court of Appeals and during a visit to Latin America's largest criminal court, the Barra Funda Criminal Court (in the city of Sao Paulo), West's interlocutors pointed out serious problems within the judicial system. Judicial proceedings are lengthy and take much longer than they should because of bureaucratic holdups and processing delays. According to the judges, they are overburdened with cases and do not have enough staff support. The Brazilian Constitution does not allow plea bargaining even if the accused confesses, thus every case must be tried. The Constitution also provides wide latitude for appeals. This leads to an ever-growing backlog of cases. Incoming Sao Paulo State Supreme Court Chief Justice Celso Limongi commented that the greatest challenge facing the Sao Paulo Supreme Court is that it does not have a guaranteed annual budget; consequently, each year the governor is required to ask the State Assembly to allocate the funds necessary to finance the judicial system. He said that Governor Jose Serra is "sensible" but could do more to support the courts. Judge Nelson Becker, a 2006 IV grantee, told West that the judiciary's independence is questioned when it has to beg the legislature for additional annual operating funds. Judges are forced to lobby members of the State Assembly, thus the Court's greatest need is an independent budget, Becker added. All the justices asked for continued exchanges with the United States and any kind of assistance we might provide in judicial and law enforcement training.

Comment

15. (SBU) Brazilian media regularly report on the social challenges of corruption, the growing drug trade, and the overburdened judicial system. To hear the same issues raised by the most senior judges in Sao Paulo State, which many analysts admit has the best bench in all of Brazil, suggests that the problems are indeed large and pressing. These Justices presented a clear set of issues with which they seek cooperation and assistance. We will continue to provide opportunities for dialogue with the Sao Paulo State Government and monitor other concerns within the law enforcement community.

16. (U) This cable was coordinated with Embassy Brasilia.
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